

DRAFT 5/2/2011 – SUBJECT TO CHANGE
For Review and Adoption by DSC at 5/26-27/2011 Meeting

DELTA STEWARDSHIP COUNCIL
April 28-29, 2011
MEETING SUMMARY

DAY 1: Thursday, April 28, 2011, 10:00 a.m. – 4:30 p.m.

1. Welcome and Introductions

The meeting was called to order at 10:00 a.m., April 28, 2011, by Chair Phillip Isenberg.

2. Roll Call – Establish a Quorum (Water Code §85210.5)

Roll call was taken and a quorum was established. The following members were present for the meeting: Hank Nordhoff, Patrick Johnston, Gloria Gray, Randy Fiorini, Phillip Isenberg, and Don Nottoli. Absent: Felicia Marcus.

3. Chair's Report

Chair Isenberg provided a brief update to the Council regarding the status of the Governor's budget.

4. Executive Officer's Report

a. Legislative and Legal Update

Curt Miller presented the Legislative Update. Miller's report included descriptions and updates on SB 34 (Simitian), SB 571 (Wolk), and SB 834 (Wolk). The list of other legislation of interest to the Council was included in the meeting materials.

Christopher Stiles, the Council's legal extern, presented the Legal Update. Stiles's update is posted with the meeting materials at

http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item_4a_Legal_Update_1.pdf

It focused on the consolidated Delta Smelt and Salmon cases. Stiles also briefed the Council on the DWR Eminent Domain/Inverse Condemnation case.

b. Contracts Update

Joe Grindstaff discussed the quarterly listing of the Council's contracts and grants, which he provided with the meeting materials. The listing included updated information for the first quarter, January through April, 2011.

Following the Executive Officer's report and updates, Chair Isenberg called for questions or comments from the public -- there were none.

5. Adoption of March 24-25, 2011 Meeting Summary (Action Item)

Chair Isenberg asked if there were any questions or comments from the Council or members of the public on the March 24-25, 2011, meeting summary -- there were none.

It was moved (Nordhoff) and seconded (Gray) to approve the meeting summary. A vote was taken (5/0) and the motion passed.

6. BDCP Update

Karla Nemeth, Natural Resources Agency Program Manager for the Bay Delta Conservation Plan, updated the Council on the progress of the BDCP. Nemeth's briefing focused on the new progress of completing the BDCP and she described the small working groups of stakeholders that would be formed to address specific issues that must be resolved before a draft BDCP can be completed. She also stated that public meetings would be held bi-monthly or more frequently if needed. Nemeth also discussed the development of alternatives for water conveyance in the Delta and conveyance sizing, stating that several factors have to be taken into account when thinking of sizing such as: flexibility to meet needs of fish species and create a system that is durable in the face of the changing Delta, seismic risk, and the storage needs of the state.

Next, Greg Gartrell, Assistant General Manager from Contra Costa Water District (CCWD), discussed options that CCWD thinks should be included in the BDCP for changing methods of conveying water across the Delta and their implications to the Delta. Gartrell began his presentation by stating he believed a program that is viable is one that can be staged and is accountable. He also discussed the misconceptions the public has formed about the peripheral canal over the past years. Gartrell discussed storage and how it would solve problems such as water quality, flooding, and being able to move water in dry years. He suggested a smaller conveyance, such as a tunnel rather than a canal, could be staged and accountable. Gartrell cited Los Vaqueros as a good example of the right way to do it – it is expandable and studies for expansion are currently taking place.

At the conclusion of the updates, Gartrell and Nemeth answered questions and provided clarification for the Council regarding the BDCP.

Following the discussion, public comment was provided by:

Robert Pyke, who presented a PowerPoint on a proposed solution to the basic conveyance and ecosystem restoration problems. Pyke's presentation has been posted and can be viewed at

http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item_8_Public_Comment.pdf.

Jonas Minton, Planning and Conservation League, spoke on the BDCP process. Minton complimented the Council on the transparency of its process and suggested that it was a good example for the BDCP. Minton feels financing is an important question and was pleased to see that the Council is looking at alternatives first, and encouraged the BDCP to follow the Council's example.

Bob Riopel, Pacific Inter-Club Yacht Association, believes the BDCP should consider no alternative conveyance combined with dredging and levee reinforcement.

The Council recessed for lunch at 12:00 p.m. and reconvened at 12:45 p.m.

7. Delta Plan Development (Note: This item was continued on Friday) (Action Item)

Agenda Item 7 began with a PowerPoint presentation by Jim Andrew, Deputy Attorney General, California Department of Justice. Andrew's presentation was an update on the CEQA Process and the Delta Plan. Andrew discussed the Delta Plan versus the Delta Plan EIR in general, the Delta Plan EIR format and structure, and the conceptual approach to alternatives and the next steps for the EIR. Following the presentation, Andrew and Chief Counsel, Chris Stevens answered questions and provided clarification for the Council.

Next on the agenda was the discussion of the third staff draft of the Delta Plan that was posted on the Council website Friday, April 22, 2011. Terry Macaulay and Consultant Gwen Bucholz introduced the overall document and chapters, setting context for discussion. Following the introduction, Chair Isenberg asked if there were questions from the public before the Council began an in-depth discussion on each chapter.

Greg Zlotnick, with the State and Federal Contractors Water Agency, requested clarification regarding the EIR preparation. He asked using a programmatic versus a detailed document, how would the Council deal with the incorporation of other plans into the Delta Plan? Bucholz responded that the document was programmatic and also clarified that the EIR would have ranges of potential options to be considered.

As there were no further questions, the Council turned to the individual presenters for an in-depth discussion of each chapter. The discussion on Chapter 1 was led by Jessica Pearson, Chapter 2 was led by Cliff Dahm, joined by Lauren Hastings and Lindsay Correa; Gwen Bucholz led the discussion on Chapter 3. The presenters answered the Council's questions, provided clarification and took direction/suggestions from the Council members. The Council discussed Chapters 1-3 with Public Comment heard on each chapter after its presentation.

Public Comment – Chapter 1:

Pete Kutras, Delta Counties Coalition, made several comments on Chapter 1. Kutras suggested adding other plans such as the Delta Conservancy Strategic Plan, and the Delta Protection Commission's Sustainability Plan, etc. to page 8. He also asked the staff to look at the conclusion on page 10.

Tom Zuckerman, Central Delta Water Agency, commented on the relative value of the land. Using Jones Tract as an example, Zuckerman believes the figure used to reclaim Jones Tract can be refuted. Zuckerman stated that the Council has been given some misinformation and should be careful not to mix values. He feels the references to the cost of maintaining/improving levees should be updated. Re requested clarification regarding Table 1-1 on page 11, specifically the statement "probability of Island Flooding from high water relative to record to 2005" and cautioned the Council to make sure they are looking at history and are comparing apples to apples.

Jonas Minton, Planning and Conservation League, had several comments on Chapter 1 and provided the Council with written comments that are posted at http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Env_Coalition_042811.pdf

Public Comments – Chapter 2:

Jonas Minton, Planning and Conservation League, commented on the diagram on page 23. He summarized it and made suggestions for improvement. Minton's comments are included in the letter he previously provided the Council.

Gary Bobker, The Bay Institute, stated the Delta Plan should follow its own guidance regarding plan development and complimented the staff on the definition of adaptive management in Chapter 2. Bobker believes the draft consistency determination uses objectives from the Delta Reform Act and that they are not the same as performance measures. He feels the Plan should be more specific on objectives that are measurable. He also feels the consistency determination should identify ranges of uncertainty and propose and adaptive range. Bobker strongly urged the Council to retain the term best available Science.

Mark Rentz, Association of California Water Agencies, stated that one of the things that hadn't been discussed was the information that is available and asked if risk is involved. Does it create great risk or is it minor? Should ask yourself what you are adapting to and do you raise the bar high or set a low bar?

Public Comments – Chapter 3:

Jonas Minton, Planning and Conservation League, had several comments on the chapter that are included in the written comments provided to the Council.

Pete Kutras, Delta Counties Coalition, felt the HCP's from the Counties should be integrated.

Greg Zlotnick, State and Federal Contractors Water Agency, stated he has a different reading of the statute as stated on page 36 and would submit written comments. Regarding the Adaptive Management Requirements, Zlotnick asked how the Ecosystem Restoration Actions are defined. He believed it was too vague and felt additional guidance would be helpful.

Bob Riopel, PICYA, requested clarification about who is the proponent for a commercial project approved by the County Planning Department.

Judy Bendix, Mosaic Associates, requested clarification on covered actions outside the Delta.

Rob Wainwright requested clarification about a city that had a general plan in place before the Delta Plan became effective and whether or not that project would be a covered action.

Mark Rentz, Association of California Water Agencies, commented on the Covered Actions FAQ's, in particular projects outside the Delta in the context of "Covered Actions." He responded to Ms. Gray's query about projects outside the Delta. See page 2 of FAQ's, the next to last question. Rentz requested clarification on how the covered action proponent has to look at to make his determination on consistency.

Greg Zlotnick also requested clarification on the diversion issue and contract supplies and existing contracts.

Chair Isenberg asked if there were any members of the public wishing to address the Council – there were none. Chair Isenberg decided to conclude the meeting at that point and begin with Chapter 4, Water Supply at 9 a.m., on Friday.

The meeting concluded for the day at 4:45 p.m.

DAY 2: Friday, April 29, 2011, 9:00 a.m. – 3:30 p.m.

9. Call to Order

The meeting was called to order at 9:00 a.m., Friday, April 29, 2011, by Chair Phillip Isenberg.

10. Roll Call – Establish Quorum (Water Code §85210.5)

Roll call was taken and a quorum was established. The following members were present for the meeting: Hank Nordhoff, Patrick Johnston, Gloria Gray, Randy Fiorini, Phillip Isenberg, and Don Nottoli. Absent: Felicia Marcus.

11. Lead Scientist's Report

This agenda item was presented by Cliff Dahm. Dahm's report covered the selection of the 2011 Class of Delta Science Fellows. The details can be found at http://www.deltacouncil.ca.gov/delta_science_program/research/research_fellow.html; He also discussed the latest issue of the online journal, San Francisco Estuary and Watershed Science, http://escholarship.org/us/jmie_sfews; and highlights from the Salmonid Integrated Life Cycle Models Workshop that was held on April 13, 2011, http://deltacouncil.ca.gov/delta_science_program/events/workshop_Salmonid_lifecycle.html. Dahm also briefed the Council on a seminar he attended presented by Marsha McNutt, Director of the USGS regarding the Deep Water Horizon Oil Spill, and how the science and decision making interfaced.

12. Delta Independent Science Board Report

Dr. Jeffrey Mount, of the Delta Independent Science Board, presented the report on behalf of Dr. Norgaard. Mount reported that the ISB met on April 7th and focused its review on the Adaptive Management Chapter. The ISB felt the chapter is very general and noted there is no science plan included – there is a science program but no well-coordinated science plan. The Board is very supportive of the direction of adaptive management and the recommendations throughout. The ISB is waiting for the fourth draft to review – they anticipate on having their comments to the Council on Monday, June 6. The ISB members will individually review draft three and submit their comments to Dr. Norgaard, who will forward them to the Council. Mount, who is also a levee expert, responded to several questions from Council on the overall condition of the levees and prioritization of the levees because of the high costs and other issues such as dredging and sedimentation.

13. Delta Plan Development (Continuation of Agenda Item 7, if necessary)

This item was continued from Thursday, beginning with Chapter 4, Water Supply. Martha Davis led the discussion, joined by Les Grober, from the State Water Board, who discussed flow standards.

The Council recessed for lunch at 12:35, returned at 1:00 p.m. and resumed the discussion on Chapter 4.

Public Comment – Chapter 4:

Gary Bobker, The Bay Institute, suggested that the Plan require Delta reliance reductions to be achieved and documented. Bobker stated they will submit written comments.

Jonas Minton, Planning and Conservation League, submitted a draft definition of water supply reliability, that is posted at http://www.deltacouncil.ca.gov/sites/default/files/documents/files/PCL_042911.pdf and a draft definition on water supply reliability from Barry Nelson, posted at

http://www.deltacouncil.ca.gov/sites/default/files/documents/files/NRDC_042911.pdf.

Minton also requested clarification on the updated flow objectives for a future conveyance system or current system. He felt the sentence was unclear.

Greg Zlotnick, State and Federal Contractors Water Agency, had various comments on chapter 4 and asked if reduced reliance was not just another avenue of reduced reductions. He stated he was also concerned with the growing use of the words “dependence and dependency” and felt the word “reliance” should be used instead. He also stated overdraft was a local problem and will submit written comments.

Anson Moran, Delta Wetlands, commented on page 50, policy 4. Moran stated 1) nexus was not there – if the State Board does not act; 2) it’s not an enforceable action; 3) it’s counterproductive – he felt it was important to identify what could be done in the short term; and 4) it’s regulatory picture would adapt over time.

Tom Zuckerman, Central Delta Water Agency, complimented the staff on making strides to create a cohesive plan. Zuckerman stated he will provide written comments. He also stated that going to the State Board may not be the right move. He said there are many projects out there for groundwater and that they should all be considered.

Connie Ford, Sacramento County Water Agency, stated that AB1420 requires compliance with water conservation measures set by the California Urban Water Conservation Council.

Valerie Kincaid, San Joaquin River Group, felt the discussion on Flows by Les Grober was helpful in understanding the process and that it helps to move the plan in the right direction. Kincaid went through the chapter page by page offering comments and suggestions and stated they will submit written comments.

Osha Meserve, Stone Lakes National Wildlife Refuge Association, commented on the recommended policy approach to conveyance. Meserve felt the chapter should provide guidance on conveyance regarding moving water out of the Delta and protecting the ecosystem.

Brian Campbell, East Bay Municipal Utilities District, made comments on Chapter 4 and stated that EBMUD will submit written comments.

Paul Gosslin, Butte County, believes the plan took a lot to get together and felt the intent is to look at the statute and fix everything in one shot. Gosslin stated the Plan is not intended to just be put in place and implemented but was intended to be updated every five years. Regarding covered actions, he suggested taking some of the uncertainty out of the Plan and focus on the certainty. He believes the worst thing is to have a Plan that is not achievable and suggested the Council cautiously move forward.

Burt Wilson, commented on the relationship between the BDCP and the Council. He believes the goals are not co-equal, but are mutually exclusive.

14. Public Comment

Chair Isenberg asked if there were any members of the public wishing to address the Council and comments were provided by:

Anson Moran, Delta Wetlands, made comments on Chapters 1-3, stating that not all covered actions are the same and that the level of review and standard is held for them should be different and offered suggested language.

15. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests of other agencies; (d) other requests from Council members; and (e) confirm next meeting date – May 12-13, 2011 Council Meeting that will be held at the West Sacramento City Hall Galleria. The Council will continue the in-depth discussions on the 3rd draft Delta Plan – walking through Chapters 5-9.

The meeting was adjourned at 3:40 p.m.